

Message Text

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ACTION EB-11

INFO OCT-01 AF-10 ARA-11 EUR-25 EA-11 IO-12 ADP-00 AGR-20

CEA-02 CIAE-00 COME-00 DODE-00 FRB-02 H-02 INR-10

INT-08 L-03 LAB-06 NSAE-00 NSC-10 PA-03 RSC-01 AID-20

CIEP-02 SS-15 STR-08 TAR-02 TRSE-00 USIA-12 PRS-01

OMB-01 OIC-04 NEA-10 RSR-01 /224 W
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R 161505 Z APR 73

FM USMISSION GENEVA

TO SECSTATE WASHDC 8837

INFO AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY BRASILIA

AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY THE HAGUE

AMEMBASSY HELSINKI

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY MADRID

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY PRETORIA

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

AMEMBASSY VIENNA

AMEMBASSY WELLINGTON

USMISSION EC BRUSSELS UNN

USMISSION OECD PARIS UNN

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E. O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: CTIP WG I - COUNTERVAILING DUTIES

REF: (A) TSC 73-27; (B) GENEVA 1684 (NOTAL)

BEGIN SUMMARY: US, WITH STRONG SUPPORT FROM SIWTZERLAND, SUCCEEDED IN BLUNTING EXPECTED EC AND CANADIAN ARGUMENTS CONCERNING INJURY PROVISION UNDER ART. VI. US REP UNDERLINED NEED FOR NEW RULES TO DEAL WITH EXPORT SUBSIDIZATION IN THIRD MARKETS BUT ELICITED NO COMMENTS FROM OTHERS. APART FROM US REFERENCE TO PROPOSED TRADE LEGISLATION TO COPE WITH PROBLEM OF SUBSIDIZED EXPORTS TO THIRD COUNTRIES, TRADE BILL NOT DISCUSSED. BRAZIL, SPEAKING FOR LDCS, PUSHED FOR EXEMPTION OF LDCS FROM COUNTERVAILING DUTY ACTIONS. END SUMMARY

1. CANADA (RUSSELL), SUPPORTED BY EC (MENEL) AND JAPAN, LINKED DUMPING AND EXPORT SUBSIDIZATION IN EFFORT TO JUSTIFY INJURY REQUIREMENT IN COUNTERVAILING ACTIONS. US AND SWISS REPS POINTED OUT INAPPLICABILITY OF ANALOGY SINCE DUMPING IS PHENOMENON OF DIFFERENTIAL PRICING BY ENTREPRENEURS, WHICH HAVE LIMITED RESOURCES, WHILE EXPORT SUBSIDIES ARE CONSCIOUS ACTIONS BY GOVERNMENTS TO STIMULATE EXPORTS AT EXPENSE OF EMPLOYMENT IN OTHER COUNTRIES. US REP (KELLY) CONCLUDED THAT PRESENT GATT PROVISIONS RESULT IN IMBALANCE OF INTERNATIONAL OBLIGATIONS SO LONG AS COUNTRIES ARE UNFETTERED IN THEIR SUBSIDIZATION PRACTICES WHILE POLICING ACTIONS AGAINST SUBSIDIES ARE CONSTRAINED. IN EFFECT THIS IMBALANCE IS AN INDUCEMENT TO SUBSIDIZE. US STRONGLY SUPPORTED BY SWISS REP (KELLERHALS) WHO STATED THAT WGI MUST DEAL WITH ROOT OF PROBLEM (SUBSIDIES) AND NOT WITH SYMPTOMS (INJURY) AND REACTION (COUNTERVAILING DUTIES).

2. IN LIGHT OF WG DISCUSSION AND RECENT STATEMENT BY US (MALMGREN) THAT INJURY PROVISION IS QUOTE NEGOTIABLE END QUOTE CANADIAN REP WONDERED WHETHER US WAS TRYING TO NEGOTIATE INJURY PROVISION IN OR OUT OF GATT. HE STATED FURTHER THAT PROHIBITED EXPORT SUBSIDIES SHOULD BE POLICED MULTILATERALLY UNDER ART XXIII. EC AGREED THAT ART XXIII LIMITED OFFICIAL USE

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WAS CORRECT PROCEDURE TO FOLLOW AND THAT ART VI SHOULD NOT BE REGARDED AS POLICING MEASURE. BRAZIL SAID LDCS SHOULD BE ALLOWED TO SUBSIDIZE EXPORTS IN INTEREST

OF ECONOMIC DEVELOPMENT WITHOUT FACING ANY COUNTERVAILING DUTY ACTIONS.

3. EC SUGGESTED THAT WG FOCUS ITS ATTENTION ON OUTLINE OF A COUNTERVAILING DUTY CODE (ANNEX III, COM. IND/ W/98). CANADA AND JAPAN SUPPORTED IDEA OF CODE. SWISS REP, HOWEVER, POINTED OUT THAT THIS OUTLINE BASED ON ANTIDUMPING CODE AND THEREFORE NOT RELEVANT TO DIFFERENT PROBLEM OF EXPORT SUBSIDIZATION. US ALSO NEGATIVE, STATING THAT WORK ON CODE NOW WOULD BE PUTTING CART BEFORE HORSE. ONCE SUBSIDY PROBLEMS SOLVED THEN IT MIGHT BE APPROPRIATE DISCUSS COUNTERVAILING CODE. NO WG DECISION MADE TO PROCEED WITH WORK ON CODE.

4. US REP RAISED PROBLEM OF THIRD MARKET SUBSIDIZATION. HE NOTED INEFFECTIVENESS OF ART VI:6 B SINCE THIRD COUNTRIES MIGHT BENEFIT FROM SUBSIDIZED IMPORTS AND BE RELUCTANT TO COUNTERVAIL. EVEN WHERE THIRD COUNTRIES MIGHT BE WILLING TO DO SO, PERMISSION BY CONTRACTING PARTIES REQUIRED. ALTERNATIVE SOLUTION MIGHT BE RECOURSE TO ART XXIII, WHICH US NOW USING IN TEST CASE (READ ITALIAN LAW 639) OF EFFECTIVENESS THIS PROCEDURE. ANOTHER POSSIBLE SOLUTION, PROPOSED EARLIER BY US AND EMBODIED IN NEW TRADE BILL, WOULD ALLOW OFFENDED PARTY TO WITHDRAW CONCESSIONS OR IMPOSE RESTRICTIONS ON IMPORTS FROM COUNTRIES THAT SUBSIDIZE EXPORTS TO THIRD MARKETS. OTHER REPS MADE NO RESPONSE.

5. NEXT MEETING, TO BE SCHEDULED BY CTIP, WILL CONTINUE DISCUSSION OF EXPORT SUBSIDIES, DOMESTIC SUBSIDIES THAT STIMULATE EXPORTS, INJURY REQUIREMENT IN COUNTERVAILING DUTY ACTIONS, AND PROBLEM OF THIRD- COUNTRY EXPORT SUBSIDIZATION. RIMESTAD

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